

## **Chapter 8.44**

### **WATER WELLS**

#### **Sections:**

<b>8.44.010</b>	<b>Definitions.</b>
<b>8.44.020</b>	<b>Purposes.</b>
<b>8.44.030</b>	<b>Use of Water Well; When Permitted.</b>
<b>8.44.040</b>	<b>Temporary Permit for Domestic Use of New Water Well; When Required.</b>
<b>8.44.050</b>	<b>Construction or Repair of Water Well; Permit Required.</b>
<b>8.44.060</b>	<b>Maintaining or Using Water Well; Permit Required.</b>
<b>8.44.070</b>	<b>Permit for Water Well; Application; Fees.</b>
<b>8.44.080</b>	<b>Board of Health; Variances;</b>
<b>8.44.090</b>	<b>Location Near City's Water Supply.</b>
<b>8.44.100</b>	<b>Abandoned Water Well.</b>
<b>8.44.110</b>	<b>Private Water Well, Use of; When Permitted.</b>
<b>8.44.120</b>	<b>Contaminated Well; Notice and Order to Discontinue Use.</b>

#### **8.44.010 Definitions.**

For the purposes of this chapter, the following words shall have the following meanings:

Abandoned water well shall mean a well the use of which has been permanently discontinued.

City of Lincoln water distribution system shall mean the water supply system owned, operated, and maintained by the City of Lincoln.

Contaminant shall mean any physical, chemical, biological, or radiological substance or matter which tends to degrade its quality so as to constitute a hazard or impair the usefulness of the water; or the presence in the water of certain infectious agents capable of causing disease in humankind.

Health Director shall mean the Director of the Lincoln-Lancaster County Health Department or such director's duly authorized representative.

Domestic use shall mean the use of ground water for human needs as it relates to health and sanitation (not including heat pumps).

Ground water shall mean water occurring naturally in underground formations that are saturated with water.

Owner shall mean any person having a legal interest in real or personal property or any person in possession or control of real or personal property, excluding any person whose interest is for security only.

Pumps and pumping equipment shall mean any equipment or materials used or intended for use in withdrawing or obtaining ground water, including, without limitation, seals and tanks, together with fittings and controls.

Repair shall mean any action that results in a breaking or opening of the well seal or replacement of a pump.

Three-mile zone shall mean that area within three miles of the corporate limits of the City of Lincoln.

Water supply system shall mean a well and all appurtenances thereto for the delivery of ground water for use, including pump storage and piping.

Water well shall mean any excavation that is drilled, cored, bored, washed, driven, dug, jetted, or otherwise constructed, and its pumps and pumping equipment, when the intended use of such excavation is for the location, extraction, or artificial recharge of ground water, excluding construction, dewatering wells, and sump pumps within permanent structures.

Water well permit shall mean a written permit issued by the City of Lincoln permitting the construction, use, or maintenance of a private water supply system. (Ord. 15568 §1; May 14, 1990: P.C. §8.54.010: Ord. 13558 §2; March 14, 1983).

#### **8.44.020 Purposes.**

The purposes of this chapter are to protect the health, safety, and welfare of the citizens of the City of Lincoln and within the three-mile zone surrounding said city by protecting its aquifer from depletion, salinization, and chemical and biological contamination; and by providing standards and regulations to prevent the spread of contagious diseases and chemical contamination by the use of water wells within the jurisdiction of the City of Lincoln. Therefore, the City Council finds that properly planned, constructed, installed, operated, and maintained water wells promote the health and welfare of the citizens of this city and its surrounding three-mile zone by preventing the biological and chemical contamination of ground water, preventing nuisances, eliminating hazards to public health by minimizing chemical and biological contamination of the ground water by the introduction of such contaminants into the ground water from water wells, and thereby minimizing the spread of communicable disease and detrimental effects to the health of the public by chemical contamination of its water supply. It is, therefore, declared to be the public policy of this city to eliminate and prevent health and safety hazards by regulating the design, location, construction, installation, operation, maintenance, and abandonment of water wells within the limits of the city and three miles thereof, and requiring registration of new and existing water well, and providing for penalties for violation of this ordinance. (Ord. 15568 §2; May 14, 1990: P.C. §8.54.020: Ord. 13558 §3; March 14, 1983).

#### **8.44.030 Use of Water Well; When Permitted.**

It shall be unlawful to construct, maintain, or use within the limits of the city a water well for domestic use; provided, that a water well for domestic use existing immediately prior to the effective date of this chapter may be continued although such use does not conform to the provisions hereof. Such well shall comply with the other provisions of this chapter and with the regulations, standards, and ordinances adopted by the City Council.

Whenever the use of a water well for domestic use becomes a nonconforming use through a change in the corporate limits of the city, such use may be continued.

Discharge, recharge, or reinjection wells are prohibited except for the disposal of water where only the temperature of the water has been altered; provided, that the maximum water temperature shall not exceed ninety degrees Fahrenheit. It shall be deemed a violation of this ordinance to reinject or inject any chemically altered water or hazardous substance of any kind into or above the ground water aquifer. (Ord. 15568 §3; May 14, 1990: P.C. §8.54.030: Ord. 13558 §4; March 14, 1983).

#### **8.44.040 Temporary Permit for Domestic Use of New Water Well; When Required.**

Notwithstanding the other provisions of this chapter, the Health Director may grant a temporary permit allowing a new water well to be used for domestic use when the city's water distribution system is not yet available. Applicants for a temporary permit shall obtain forms from the director, which shall be completed and filed with the director, who shall forthwith forward such completed forms to the Public Utilities Department and such other departments of the city for processing. If such applicant's well is found to be in compliance with the "Water Well Regulations and Standards of the City of Lincoln" and its ordinances, a temporary permit shall then be issued, subject to the following conditions:

(a) The temporary permit for domestic use of a new water well shall be temporary and shall be valid only so long as the city's water distribution system is not available.

(b) Whenever the city water distribution system main is located within 300 feet of the premises upon which water is for domestic use is required, the city's water distribution system shall be deemed available.

(c) No person shall commence construction, use, or repair of any water well before a permit has been obtained from the City of Lincoln as provided in Section 8.44.050 or Sections 8.44.060 and 8.44.070.

(d) In the event that such well ceases to comply with the "Water Well Regulations and Standards of the City of Lincoln" and its ordinances, said domestic use of the well shall be immediately discontinued until the same is brought into compliance with the applicable ordinance provisions, regulations, or standards. (Ord. 15568 §4; May 14, 1990; P.C. §8.54.035; Ord. 13558 §5; March 14, 1983).

#### **8.44.050 Construction or Repair of Water Well; Permit Required.**

Whenever any person seeks to construct a water well within the limits of the city or the three-mile zone, such person shall construct the same in accordance with regulations, standards, and ordinances adopted by the City Council and such regulations and standards shall be on file with the office of the City Clerk upon adoption by said council. Construction of a water well shall not commence before a construction permit has been issued by the city to the owner of the land on which such well is to be located, as provided for in Section 8.44.070. Within sixty days following the construction of the water well, the owner shall be required to have the well inspected by the Health Department. In the event the water well does not comply with the regulations, standards, and ordinances adopted by the council, the use of the well shall be immediately discontinued until the same is brought into compliance with said regulations, standards, and ordinances.

Whenever any person seeks to repair a water well within the city limits or the three-mile zone, such persons shall repair the same in accordance with regulations, standards, and ordinances adopted by the City Council. Repair of a water well shall not commence before a repair permit has been issued by the City of Lincoln to the owner of the land on which such well is located as provided for in Section 8.44.070. Within sixty days following the repair of the water well, the owner shall be required to have the well inspected by the Health Director. In the event the water well repair does not comply with the regulations, standards, and ordinances adopted by the council, the use of the well shall be immediately discontinued until the same is brought into compliance with said regulations, standards, and ordinances. In the case of emergency repairs, such repairs may be made without first obtaining the repair permit; provided, however, said permit shall be obtained within ten days subsequent to such emergency repair.

Enforcement of this section shall be performed by the Health Director in accordance with such policies as may be adopted from time to time in written form by the Lincoln-Lancaster County Board of Health. (Ord. 15568 §5; May 14, 1990: P.C. §8.54.040: Ord. 13558 §6; March 14, 1983).

**8.44.060 Maintaining or Using Water Well; Permit Required.**

Within sixty days of the adoption of this ordinance, all persons maintaining or using water wells within the limits of the city existing immediately prior to the effective date of this chapter or constructed hereafter shall be required to have such wells inspected by the Health Director and to obtain a permit from the Health Director to continue the maintenance or use of such water well. Permits for such wells shall be valid for two years, commencing January first of each odd numbered year. Such wells shall comply with the provisions of this chapter and with the regulations, standards, and ordinances adopted by the City Council. (Ord. 17714 §3; August 14, 2000: prior Ord. 15568 §6; May 14, 1990: P.C. §8.54.050: Ord. 13558 §7; March 14, 1983).

**8.44.070 Permit for Water Well; Application; Fees.**

Applicants for a permit shall obtain forms from the Health Director, which completed forms together with the permit fee, shall be filed with the Health Director, who shall forthwith forward such completed forms to the Public Utilities Department and such other appropriate departments of the city for processing. If such applicant's well is found to be in compliance with the "Water Well Regulations and Standards of the City of Lincoln" and its ordinances, a permit shall then be issued. In the event that such applicant's well does not comply with such ordinances, regulations and standards, such applicant shall immediately discontinue the use of such well until same is brought into compliance with the applicable ordinance provisions, regulations, or standards.

The following permit fees are hereby adopted:

- (a) Water well construction permit ..... \$100.00
- (b) Bi-annual permits ..... \$100.00
- (c) Water well repair permit ..... \$50.00

All fees shall be credited to the Health Fund. (Ord. 17714 §4; August 14, 2000: prior Ord. 15568 §7; May 14, 1990: P.C. §8.54.060: Ord. 15242 §1; August 7, 1989: Ord. 13558 §8; March 14, 1983).

**8.44.080 Board of Health; Variances; Appeal; Procedure.**

(a) Board of Health. The Lincoln-Lancaster County Board of Health shall hear and determine appeals regarding the suitability of alternate materials and methods of construction and repair of water wells and the reasonable interpretation of the provisions of this chapter. The Board of Health shall hear and determine variances from the strict application of this chapter.

(b) Appeals to Board. Any person whose application for a permit or certificate under this chapter has been denied may, within ten days after official notification of such action, file a written request with the Lincoln-Lancaster County Board of Health for variance of the strict application of any of the rules, regulations, standards, or ordinances adopted by the City Council as described in Section 8.44.050.

Within ten days following receipt of such request, the Board of Health shall set a public hearing on the matter. Said public hearing shall be held within thirty days following receipt of the request and notice of said public hearing shall be published at least five days prior to the hearing in a newspaper of general circulation in the county. The Board of Health, in its discretion, may grant the requested variance if the evidence presented at the public hearing establishes that:

(1) Strict application of the provisions of the rules, regulations, standards, or ordinances would result in undue hardship to the public; and

(2) Granting the variance would not create an unreasonable risk of polluting ground or surface water, creating a nuisance, creating a hazard to the public health, or increasing the potential for disease transmission.

(c) Hearing Procedure. Hearings on appeal need not be conducted according to technical rules relating to evidence and witnesses. Oral evidence shall be taken only on oath or affirmation. Any relevant evidence shall be admitted if it is the type of evidence upon which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which may make improper the admission of such evidence over objection in civil actions in courts of competent jurisdiction in this state. Irrelevant and unduly repetitious evidence shall be excluded. The appellant, the Health Director, and any other party to an appeal hereunder shall have these rights, among others:

- (1) To call and examine witnesses on any matter relevant to the issues of the hearing;
- (2) To introduce documentary and physical evidence;
- (3) To cross-examine opposing witnesses on any matter relevant to the issues of the hearing; and
- (4) To rebut evidence.

(d) Decisions of the Board. In exercising the above-mentioned jurisdiction, the Board of Health may in conformity with the provisions of this section reverse or affirm, wholly or partially, or may modify the order, requirement, decision, or determination appealed from and may make such decisions as ought to be made. In granting any variance from the strict application of this chapter, the Board of Health may impose any and all terms and conditions it deems necessary for the protection of public health and safety. Every decision by the board shall be accompanied by a written finding of fact based on testimony and other evidence, specifying the reason for granting or denying the variance and such decision shall be made within thirty days after the hearing. (Ord. 15568 §8; May 14, 1990: P.C. §8.54.065: Ord. 14227 §1; September 30, 1985).

#### **8.44.090 Location Near City's Water Supply.**

It shall be unlawful for any person to dig, construct, use, or maintain a water well within a distance of 3,000 feet of any existing production well belonging to the City of Lincoln in connection with the city's water supply; provided, that any such water well existing immediately prior to March 29, 1983, may be continued to be used, maintained, and repaired when necessary, although such use does not conform to the provisions hereof. (Ord. 15568 §9; May 14, 1990: P.C. §8.54.070: Ord. 13558 §9; March 14, 1983).

#### **8.44.100 Abandoned Water Well.**

Whenever a person shall abandon or destroy a water well, such person shall first contact the director for the purpose of inspection of such abandonment or destruction process from its inception. All abandoned water wells shall be properly abandoned or destroyed in accordance with applicable regulations and standards on file within the City Clerk's office.

Whenever a water well has been improperly abandoned or discontinued for use, the owner of such property upon which such well is located shall be notified to abandon such well in accordance with applicable regulations, standards, and ordinances of the city. Upon failure of the owner of the property upon which said water well is located to comply with such order, the city shall fill up, destroy, or abandon such well in accordance with appropriate regulations, standards, and ordinances at the cost of the owner of such property. (Ord. 15568 §10; May 14, 1990: P.C. §8.54.080: Ord. 13558 §10; March 14, 1983).

#### **8.44.110 Private Well, Use of; When Permitted.**

The use of private wells within the limits of the city for domestic purposes shall be permitted only when the city's water distribution system is not available to the premises on which water is required. The city water distribution system shall, for the purposes of this chapter, be considered available when a water distribution main is located within 300 feet of any part of said premises on which water is required. (Ord. 15568 §11; May 14, 1990: P.C. §8.52.010: Ord. 3489 §11-1301; July 6, 1936).

#### **8.44.120 Contaminated Well; Notice and Order to Discontinue Use.**

Whenever the Health Director shall find from a bacteriological test that the water from any well or cistern within the limits of the city used for domestic purposes is impure, contaminated, and unfit for drinking purposes and will introduce or spread contagious, infectious, or malignant diseases within the city, it shall be the Health Director's duty to serve or cause to be served on the owner, tenants, or lessee of the property on which such well or cistern is located a notice in writing that such water shall no longer be used for drinking or domestic purposes, and the owner, tenant, or lessee of the property on which such well or cistern, the water in which is found to be impure, contaminated, and unfit for drinking purposes, is located shall within forty-eight hours from the time of service of such notice close up and destroy said well or cistern. Upon failure of the owner, tenant, or lessee of the property upon which said well or cistern is located to comply with such order, the Health Director shall fill up and destroy, or cause to be filled up and destroyed, said contaminated well or cistern, at the cost and expense of the owner of the property upon which such well or cistern is located. (Ord. 15568 §12; May 14, 1990: P.C. §8.52.020: Ord. 3489 §11-1301; July 6, 1936).